



## DEPARTMENT OF REVENUE

### Liquor and Tobacco Enforcement Division

#### COLORADO LIQUOR RULES

##### 1 CCR 203-2

---

#### **Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.**

**Basis and Purpose.** The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), ~~and~~ 44-3-202(2)(a)(I)(R), **and 44-3-301**, C.R.S. The purpose of this regulation is to establish procedures for a licensee seeking to make material or substantial alterations to the licensed premises, and provide factors the licensing authority must consider when evaluating such alterations for approval or rejection.

- A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities. For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:
1. Any increase or decrease in the total size or capacity of the licensed premises.
  2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises.
  3. Any substantial or material enlargement of a bar, relocation of a bar, or addition of a separate bar. However, the temporary addition of bars or service areas to accommodate seasonal operations shall not require prior approval unless the additional service areas are accompanied by an enlargement of the licensed premises.
  4. An outside service area located on a property owned by a municipality, a city and county, or the unincorporated area of a county, and that the licensee possesses in accordance with subsection (B)(2) of this regulation, may be approved by the state and local licensing authorities upon the annual filing of a modification of premises application, due at the time of initial application or at the time of renewal, on a form approved by the State Licensing Authority, and payment of the associated modification of licensed premises fee as set forth in Regulation 47-506, provided that:
    - a. The proposed outside service area located on property owned by the municipality, city and county, or unincorporated areas of a county, is immediately adjacent to the licensed premises;
    - b. The licensed premises, as temporarily modified, will comprise a definite contiguous area;
    - c. Plans and specifications identifying the outside service area, including dates of

seasonal operation (if applicable), accompany the form and fee;

- d. Licensees shall maintain records of the dates alcohol service occurs on the outside service area if such space is used seasonally or sporadically, and must provide records to the Division upon request; and
  - e. All outside service areas are closed to motor vehicle traffic by physical barriers during all times that alcohol service occurs.
5. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure detailed in the latest approved plans and specifications on file with the state and local licensing authorities. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non-structural remodeling where the remodel does not expand or reduce the existing area designed for the display or sale of alcohol beverage products.
  6. The destruction or demolition, and subsequent reconstruction, of a building that contained the retailer's licensed premises shall require the filing of new building plans with the local licensing authority, or in the case of manufacturers and wholesalers, with the state licensing authority. However, reconstruction shall not require an application to modify the premises unless the proposed plan for the newly-constructed premises materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications detailed in the latest approved plans and specifications on file with the state and local licensing authorities.
  7. Nothing herein shall prohibit a licensee from modifying its licensed premises to include in the licensed premises a public thoroughfare, if the following conditions are met:
    - a. The licensee has been granted an easement for the public thoroughfare for the purpose of transporting alcohol beverages;
    - b. The public thoroughfare is authorized solely for pedestrian and non-motorized traffic;
    - c. The inclusion of the public thoroughfare is solely for the purpose of transporting alcohol beverages between licensed areas, and no sale or consumption will occur on or within the public thoroughfare; and
    - d. Any other conditions as established by the local licensing authority.
  8. The addition of a noncontiguous location to the licensed premises of a winery, **limited winery, distillery, or brewery** licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
  9. Modification of the licensed premises to include a communal outdoor dining area, subject to the requirements of section 44-3-912, C.R.S., and Regulation 47-1103.
- B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Liquor or Beer and Wine Codes and related regulations. Factors to be taken into account by the licensing authority shall include, but not be limited to, the following:
1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants.
  2. The possession, by the licensee, of the changed premises by ownership, lease, rental or

- other arrangement.
3. Compliance with the applicable zoning laws of the municipality, city and county or county.
  4. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.
  5. The legislative declaration that the Liquor and Beer and Wine Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.
- C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within fifteen (15) days after the date of notice.
- D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 44-3-402, C.R.S., or a limited winery defined in section 44-3-403, C.R.S., only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises, including the addition of a noncontiguous location to the licensed premises of a winery, **limited winery, distillery, or brewery** licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).
- E. The state licensing authority shall not impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer's license, except for applications to modify the premises through the addition of a noncontiguous location to the licensed premises of a winery, **limited winery, distillery, or brewery** licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.

#### **Regulation 47-310. Application - General Provisions.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(a), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), **44-3-303(1)(b)**, 44-3-304(1), 44-3-307, and 24-5-101 C.R.S. The purpose of this regulation is to establish requirements for a license application, and provide factors the licensing authority must consider when evaluating an application for approval or rejection..

- A. All applications for state licenses for the manufacture or sale of alcohol beverages shall be made upon forms prescribed by the Division. No application will be considered which is not complete in every material detail, or which is not accompanied by a remittance in full for the whole amount of the annual state license fee, and eighty five percent of the local license fee. Each application for a new retail license shall contain a report from the local licensing authority of the town, city, county, or city and county, in which the applicant proposes to conduct its business, which report shall show the opinion of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the issuance of the license applied for and the character of a new applicant.
- B. If the applicant for a license is a partnership, except as between **a husband and wife-spouses or partners in a civil union**, it shall submit with the application a certificate of co-partnership.
- C. Upon request of any licensing authority, each applicant for license shall provide suitable additional evidence of its good character and reputation, and also of the reasonable requirements of the neighborhood and the desires of the adult inhabitants. Applicants and licensees shall also submit upon request of any licensing authority all required information concerning financial and management associations and interests of other persons in the business, and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.
- D. All information submitted to any licensing authority, by application for license or otherwise, shall

be given fully, faithfully, truthfully and fairly. Willful or deliberate misrepresentation may result in a denial or revocation of a license.

- E. When a licensing authority is required to make a determination as to the character, record and reputation of existing licensees or applicants for new licenses, including transfers of ownership of existing licenses, the authority may consider the following factors, which may include but are not to be limited to the following:
1. Subject to 24-5-101, C.R.S., the applicant or licensee has knowingly submitted false applications, made willful misrepresentations and/or knowingly committed fraudulent acts;
  2. The applicant or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, fraud, forgery, murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drugs or narcotics convictions;
  3. The applicant or licensee has had previous alcohol beverage licenses denied or revoked as a result of violations of law, resulting in a finding of bad moral character by any licensing authority;
  4. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes related to a business;
  5. The applicant or licensee has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license; and
  6. The finding of a person who is not of good moral character by any licensing authority.
- F. When making a determination as to the character or good moral character of a licensee or applicant as required by title 44, articles 3, 4 and 5, the licensing authority shall also consider the factors set forth in section 24-5-101, C.R.S.
- G. When a licensing authority is required to make a determination as to the character or good moral character of a licensee or applicant for license, in addition to the items listed in section 24-5-101(2)(b), C.R.S., the authority may not consider the following:
1. The applicant or licensee had a civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state regarding consumption, possession, cultivation, or processing of marijuana that is lawful and consistent with the professional conduct and standards of care within the State of Colorado.
- H. When considering whether the applicant for a special event permit is of good moral character and record, the state or local licensing authority shall determine, at a minimum, whether the applicant failed to conduct past special events in compliance with applicable liquor laws. Officers of the organization or of a political candidate making an application shall not be required to submit individual history applications and fingerprint cards unless the state or local licensing authority determines that such information is necessary to establish the good moral character of the applicant.
- I. A municipality or other governmental entity that applies for a license, or to renew a license, shall submit with the application the name, address, and individual history record of at least one member of its governing body, or at least one person hired or appointed by its governing body, to serve as an officer or director; except that, pursuant to section 44-3-107(1), C.R.S., a person who has an interest in a liquor license may not be listed as an officer or director on a license owned, or to be owned, by a municipality or other governmental entity if that person individually manages or receives any direct financial benefit from the operation of such license. If the governing body of a municipality or other governmental entity hires or appoints more than one officer or director, the name, address and individual history record of each such officer or director shall be submitted with the application.

## Regulation 47-316. Advertising Practices

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), ~~and~~ 44-3-308, ~~and~~ 44-3-419(1)(a), C.R.S. The purpose of this regulation is to establish certain permitted and prohibited advertising practices between suppliers and retailers.

### A. Consumer Advertising Specialties

1. "Consumer advertising specialties" shall mean those items primarily designed to advertise or promote a specific alcohol beverage brand or supplier, that are intended and designed to be carried away by the consumer, and that have negligible value. Consumer advertising specialties are considered to be of negligible value if the suppliers' cost to purchase the consumer advertising specialties is less than ten (10) dollars per item. Apparel items are considered to be of negligible value if the suppliers' cost to purchase a single apparel item is less than twenty-five (25) dollars per item. For purposes of this regulation, glassware, plates, and barware such as jiggers, bar tins, and utensils do not qualify as consumer advertising specialties.
2. Suppliers may provide consumer advertising specialties of negligible value free of charge to a licensed retailer, so long as the consumer advertising specialties contain an advertising message that promotes the supplier or their products, and do not contain any information, markings, or logos that are specific to a retailer.
3. Consumer advertising specialties that contain any information, markings, or logos specific to a licensed retailer may not be provided free of charge, but must be purchased by a retailer at a minimum of the supplier's cost.
4. Licensees must have available for inspection those customary business records that verify these transactions, in accordance with section 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.

### B. Point-of-Sale Advertising

1. "Point-of-sale advertising" shall mean alcohol beverage brand-specific or supplier-specific promotional materials, within a retailer's licensed premises. Such items may also include a retailer's name and address.
2. Suppliers may provide the following point-of-sale advertising materials of negligible value to licensed retailers free of charge for use within retail premises: display decorations of negligible value, table tents, table tent holders, sports schedules and brackets, case cards, serving trays, condiment trays, bar utensil caddies, stir rods, strainers, presses, check and credit card holders, shakers, pitchers, table mats, bar mats, alcohol beverage lists or menus, menu cards, menu holders, calendars, napkins, napkin holders, coasters, stir sticks, and similar items of negligible value, as approved by the Division.
3. A supplier may advertise, within retail premises, alcohol beverage products, consumer mail-in rebate offers, consumer giveaways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms.
4. Supplier Rebates for Consumers and Supplier Coupons

Supplier rebates and coupons, as contemplated in this regulation, are a permitted method of alcohol beverage product promotion if they are intended to reach the consumer through permitted advertising practices, and to provide the consumer with a direct financial benefit through the redemption process. Rebates and coupons may not be used as a means of financial assistance to licensed retailers or as a means to influence or control a retailer's product selection.

- a. A supplier's "consumer rebate" provides a consumer with cash back after the consumer has purchased a supplier's product and has provided proof of product purchase upon redemption.
  - i. A supplier may provide consumer rebate certificates to consumers through point-of-sale advertising (such as tear pads, shelf talkers, case cards, or other point-of-sales materials), package inserts, or other printed or electronic media.
  - ii. A supplier's consumer rebate certificate may not be redeemed through a licensed retailer.
- b. A supplier's "instant redeemable coupon" provides a consumer with a discount off of the retailer's selling price of an alcohol beverage product, at the time it is redeemed through a licensed retailer.
  - i. Licensed retailers may redeem suppliers' instant redeemable coupons only after they have been made available to consumers through general print or electronic media directed at the consumer; package inserts; or, a supplier's representative or agent, who is not the retailer or their agent, who is providing coupons to consumers at the retail premises for the purpose of product promotion.
  - ii. Licensed retailers are prohibited from accepting and redeeming any supplier-issued instant redeemable coupons unless redemption included presentation of the coupon by a consumer with the purchase of the product advertised therein, or in accordance with other applicable redemption rules specified by the supplier or their marketing agents.
  - iii. Suppliers are prohibited from providing their instant redeemable coupons directly to licensed retailers, except when said coupons are packaged with, or attached to, each individual product package before such products are delivered to a licensed retailer.
  - iv. Suppliers may never reimburse licensed retailers for suppliers' instant redeemable coupons. Redemption must be through a third party that is independent from the supplier and the retailer.
  - v. Retailers must have available for inspection, applicable business and banking records that verify these transactions, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700. Verification may include the retailer's reconciliation of coupons redeemed to related products sold to consumers.

#### 5. Supplier Sponsored Consumer Contests and Related Displays

A supplier may advertise, within retail premises, alcohol beverage products, via consumer mail-in rebate offers, consumer give-a-ways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms. Further, suppliers may provide items to be given away in a consumer give-a-way, sweepstake, or contest, to a retailer with the purpose of the item being displayed in the retail licensed premises during the contest period, subject to the regulations below, to be given away in a consumer give-a-way, sweepstake or contest.

For consumer give-a-ways, sweepstake or contests, (collectively "Consumer Contest") the following regulations shall apply:

- a. No item provided as part of a Consumer Contest may be awarded to, received by

or otherwise kept by the licensee or any of the licensee's employees or an employee's immediate or extended family members.

- b. No item provided as part of a Consumer Contest may be awarded to, received by or otherwise kept by a supplier licensee that is providing alcohol beverage products to the retail licensee or any of the supplier licensee's employees or any supplier licensee's employee's immediate or extended family members.
- c. Any item(s) to be given away in a Consumer Contest must be awarded and given to the winning consumer within the time afforded by this regulation. Otherwise the item(s) must be returned to the supplier who will be responsible for awarding the item(s) to the winner.
- d. If the actual item(s) that is(are) part of the Consumer Contest are delivered to the retail license premises with the intention of displaying the item during the contest period, the item(s) shall be delivered together with an invoice made out to the retail licensee for not less than the actual cost of the item(s). The retail licensee shall be responsible for and required to pay the invoice cost for the item unless the retail licensee can establish to the satisfaction of the Division that the item(s) was(were) in fact presented to the winning consumer in accordance with the rules of the Consumer Contest. Both the retail licensee and the supplier of the item shall each maintain in their respective records proof establishing that the item(s) was(were) delivered to the winning consumer. Such records shall include but not be limited to a signed acknowledgement of receipt of the item(s) by the winning consumer which acknowledgment shall include a valid form of identification proving the identity of the consumer, the consumer's name, address, phone number, e-mail address (if available) and the date on which the item was presented to the consumer. In addition, the records shall include the name and position of the person or persons presenting the item to the consumer sufficient so that the Division can verify that the item was presented to the Consumer Contest winner.
- e. The Consumer Contest, including the drawing period, shall not last longer than 60 days.
- f. In the event that the supplier does not have the signed acknowledgement of receipt from the consumer within 30 days of the end of the Consumer Contest, it is the responsibility of both the retail licensee and the supplier, that payment in full of the invoice by the retail licensee is made to the supplier for the item(s). Absent payment within 24 hours of the expiration of the 30 day period, no supplier representing the brand advertised in the Consumer Contest shall be permitted to sell or otherwise provide any product to the retail licensee until the invoice is paid in full.
- g. Entrance into the Consumer Contest is not contingent on any purchases.
- h. The actual item(s) that is (are) part of the Consumer Contest may be on display in the licensed premises only during the period of the Consumer Contest. At the end of the contest period, the item(s) may be stored at the retailer location for no more than 30 days following the end of the Consumer Contest period.
- i. The item(s) must be properly identified in signage as a prize that is part of the Consumer Contest, e.g. "Win this Umbrella."
- j. Signage shall display the starting date and ending date of the Consumer Contest, the name of the company providing the item(s), and all other relevant terms and conditions of the Consumer Contest.

1. Except as provided in Regulations 47-322(B) and 47-322(C), and subsection (C)(3) of this regulation, no supplier shall directly or indirectly furnish or pay for any advertising for or with respect to any one or more retail licensee by means of the internet, device applications (apps), radio or television broadcast, magazines, newspapers, pamphlets, or similar media, or by means of any sign not located on or in the licensed premises of the retailer which is advertised.
  2. Except as provided in Regulations 47-322(B) and 47-322(C), suppliers that purchase internet, device applications (apps), radio or television advertising packages from third party advertising agencies:
    - a. May not authorize the advertising agency to apply any value attributable to the supplier's advertising package toward the advertising or promotion of any licensed retailer or their location.
    - b. May not authorize the advertising agency to combine supplier-purchased advertising packages with those purchased by licensed retailers, for the purpose and benefit of cooperative advertising.
  3. A supplier may directly or indirectly advertise for or with respect to any one (1) or more retailers that sell the supplier's alcohol beverages, via the supplier's internet websites (including forums such as a supplier's Facebook page, blog or device applications (apps)) and electronic advertising messages delivered directly to consumers' private electronic devices.
  4. Closed-circuit television advertising networks, or similar advertising networks, that deliver advertising messages to consumers are permitted in retail licensed premises with the following conditions:
    - a. A supplier may not provide a licensed retailer with any electronic equipment necessary to deliver network advertising.
    - b. A licensed retailer may not receive revenues, directly or indirectly, from licensed suppliers who advertise on the network. Revenue from non-alcohol beverage suppliers who advertise on the same network, which can be clearly distinguished by the network advertiser from supplier revenues, are permitted provided that the retailer can document that the source of the revenue is not a licensed supplier.
    - c. The advertising network and all related advertising receipts and distributions must be controlled by third party entities who are not licensed pursuant to article 3 or 4 of title 44, and who are wholly independent, in both form and substance, of any licensed supplier or retailer.
  5. **An Arts Licensee pursuant to section 44-3-419, C.R.S., may advertise the availability of alcohol beverages for sale on the licensed premises while an artistic or cultural production or performance is taking place, but the availability of alcohol beverages must not be the primary focus of the advertisement.**
- D. Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44, and related regulations, and such organization does not otherwise hold a retail license pursuant to articles 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.
- E. Except as otherwise provided for in this regulation, no supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with or for the right or privilege of posting or maintaining any advertising message, on or in, or relating to a retailer's licensed premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-411, 44-3-413, 44-3-414, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-422, 44-3-426, ~~and 44-3-428, and 44-3-432~~ C.R.S. The purpose of this regulation is to establish purchase requirements for retailers.

- A. Every person or entity licensed under the Liquor or Beer and Wine Codes to sell at retail shall purchase all alcohol beverage inventory, for the operation of its business, from a person or entity licensed to sell at wholesale pursuant to article 3 or 4 of title 44, C.R.S., except that:
  - 1. A retailer licensed for on-premises consumption only may purchase not more than ~~two~~ **seven** thousand dollars' worth of such alcohol beverages during a calendar year from a retail liquor store, ~~or~~ a liquor-licensed drugstore, ~~or a Fermented Malt Beverage and Wine Off, On or On/Off retailer.~~
    - a. **The State Licensing Authority shall publish on the Liquor Enforcement Division website each year on January 1, the adjusted retail to retail purchase limit as adjusted for inflation.**
- B. All alcohol beverages possessed or maintained on the retail-licensed premises shall be only such alcohol beverages acquired as set forth in this regulation, or as may have come into possession upon the issuance of a license or temporary permit pursuant to section 44-3-303, C.R.S.
- C. Nothing herein shall authorize a retailer to purchase alcohol beverage inventory for its licensed operations from any public or private auction.
- D. Records maintained by the licensee in compliance with section 44-3-701, C.R.S. and regulation 47-700, 1 C.C.R. 203-2 shall include all records of purchases of alcohol beverages.
- E. Purchases of malt liquor and fermented malt beverages by retailers including a retailer's purchase at the wholesaler's licensed location(s) must be from the wholesaler designated within the territory rights pursuant to section 44-3-407(1)(b)(I), C.R.S.

**Regulation 47-422. Arts License.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-3-419, C.R.S. The purpose of this regulation is to define "production and performances of an artistic or cultural nature" required to qualify for an arts license.

- A. For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., "productions and performances of an artistic or cultural nature" include
  - 1. All forms of theatrical and other performing arts including visual performances;
  - 2. An exhibition or presentation of art or objects of cultural or artistic significance, such as those commonly held in art or history museums or galleries; an
  - 3. An education seminar on an artistic or cultural subject.
- B. For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., a "patron" is a person who attends or observes the production or performance of an artistic or cultural nature for the purpose of supporting the nonprofit arts organization.
- C. The arts license must only be used to sell alcohol for consumption only to patrons present at the licensed premises for the productions and performances of the artistic or cultural nature.

- D. Alcohol beverages may be served pursuant to an arts license to adult patrons of a private function held on the arts licensed premises if the private function includes attendance at the productions and/or performances detailed in subparagraph ( A) above.
- E. An Arts Licensee may advertise the availability of alcohol beverages for purchase on the licensed premises during cultural or artistic productions or performances in print, social media, television, or radio advertising, but the availability of alcohol beverages must not be the primary focus of the advertisement.

**Regulation 47-428. Sales Rooms.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(49), 44-3-202(1)(b), 44-3-202(a)(l)(R), 44-3-202(2)(a)(l)(T), 44-3-402, 44-3-403, ~~and~~ 44-3-407, ~~and~~ 44-3-911(6)(a)(l) C.R.S. The purpose of this regulation is to establish procedural requirements for sales room applicants, and provide factors the licensing authority must consider when evaluating the application for approval or denial.

- A. Any manufacturer of vinous or spirituous liquor, licensed pursuant to 44-3-402, C.R.S., a limited winery license issued pursuant to section 44-3-403, C.R.S., or beer (malt liquor) wholesaler licensed pursuant to section 44-3-407(1)(b), C.R.S., applying to operate a sales room as defined by section 44-3-103(49), shall submit an application for a sales room to the state licensing authority.
- B. The applicant must send a copy of the application for the sales room concurrently to the state licensing authority and to the local licensing authority in the jurisdiction in which such sales room is proposed. All applications for vinous or spirituous liquor sales rooms to be operated for no more than three (3) consecutive days shall be filed with both the local and state licensing authorities not less than ten (10) business days prior to the proposed opening date.
- C. The sales room application submitted to the state licensing authority and copies of the sales room application submitted to the local licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but is not limited to, email, facsimile, or certified mail.
- D. The local licensing authority may submit a response to the application to the state licensing authority including its determination whether or not the approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority. The local licensing authority submission to the state licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but is not limited to, email, facsimile, or certified mail.
- E. For proposed sales rooms operating more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within forty-five (45) days from the date of application to the state licensing authority.
- F. For proposed sales rooms operating not more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within eight (8) business days from the date of application to the state licensing authority.
- G. If the state licensing authority does not receive a response from the local licensing authority within the time frame as stated in paragraph E or F, the state licensing authority shall deem that the local licensing authority does not object to the sales room according to paragraph D.
- H. For additional sales rooms for vinous or spirituous liquor, the applicant must affirm to the state licensing authority that the applicant has complied with local zoning restrictions.
- I. The local licensing authority can request the state licensing authority take action in accordance with section 44-3-601, C.R.S. against a licensee who operates an approved sales room if the

local licensing authority:

1. Demonstrates that the licensee has engaged in an unlawful action set forth in section 44-3-901, et seq, C.R.S.
  2. Shows good cause as specified in subsections 44-3-103(19)(a), (19)(b), or (19)(d), C.R.S.
- J. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a sales room
- K. If a licensee that has a salesroom within its main licensed premises changes its location pursuant to Regulation 47-312, 1 C.C.R. 203-2, the licensee must apply for a new sales room license at its new location in accordance with this Regulation.
- L. Sales rooms that do not sell and serve alcohol for consumption on the licensed premises are exempt from local licensing review in accordance with paragraphs B, D, E, F, and G.
- M. A **winery manufacturer** licensed pursuant to section 44-3-402, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises, and on no more than one of the noncontiguous locations.
1. A **winery manufacturer** licensed pursuant to section 44-3-402, C.R.S., may only operate a sales room on one of the noncontiguous locations if the sales room is approved in accordance with the process outlined in sections 44-3-402(2)(c), **44-3-301(2)(d), and 44-3-301(2)(e), C.R.S., respectively.**
  2. A **winery manufacturer** licensed pursuant to section 44-3-402, C.R.S., that operates a sales room on the primary licensed premises and one of the noncontiguous locations may not operate another sales room at any location.
- N. A limited winery licensed pursuant to section 44-3-403, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises and on no more than one of the noncontiguous locations.
1. A limited winery may only operate a sales room on one of the noncontiguous locations of the licensed premises if the sales room is approved as one of the licensee's additional sales rooms allowed under section 44-3-403(2)(e)(i)(a), C.R.S., in accordance with the process outlined in section 44-3-403(2)(e)(ii), C.R.S.
  2. A limited winery that operates a sales room on its primary licensed premises and one of the noncontiguous locations may only operate additional sales rooms at up to four other approved locations.
- O. **A manufacturer of spirituous liquors in its sales room may use common alcohol modifiers (including but not limited to: amaros, liqueurs, and vermouths) to mix with its spirituous liquors of its own manufacturer to prepare cocktails for consumption on or off the sales room premises for patrons.**
1. **Common alcohol modifiers shall not be sold to customers if the modifier has not been combined with a spirituous liquor.**
- P. **Pursuant to 44-3-911(6)(a)(II), C.R.S., manufacturers licensed pursuant to 44-3-402, C.R.S. or 44-3-403, C.R.S., shall not deliver alcohol beverages to a customer at an unlicensed location for off-premises consumption.**

**Regulation 47-900. Conduct of Establishment.**

Basis and Purpose. The statutory authority for this regulation includes but is not limited to subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(P), ~~and~~ 44-3-202(2)(a)(I)(R),

44-3-901(6)(q), C.R.S. In accordance with the legislative declaration of section 44-3-102, C.R.S., the Liquor Code is deemed an exercise of the police powers of the State of Colorado for the protection of the economic and social welfare and the health, peace, and morals of the people of the State of Colorado. Regulation of the manufacture, distribution, and sale of alcohol beverages is regulated by the Liquor Code as a matter of statewide concern. The purpose of this regulation is to exercise proper regulation and control over the sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State, and to establish uniform standards of decency, orderliness, and service within the licensed industry. Additionally, Sections 14 and 16 of Article XVIII of the Constitution of Colorado do not permit open and public consumption of marijuana and the State Licensing Authority deems liquor licensed premises to be public places.

A. Orderliness, loitering, serving of intoxicated persons.

Each person licensed under Article 3, Article 4, and Article 5 of Title 44, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, their employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in 18-9-106, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located.

B. Attire and conduct of employees and patrons.

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit the following:

1. Employment or use of any person in the sale or service of alcohol beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
2. Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph number (1) above.
3. Any person on the licensed premises touching, caressing or fondling the breasts, buttocks, anus, or genitals of any other person.
4. Any employee or person on the licensed premises wearing or using any device or covering of any kind, which exposes or simulates the breasts, genitals, anus, pubic hair or any other portion thereof.

C. Entertainment.

Live entertainment is permitted on any licensed premises, except that:

1. No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit any person to perform acts of or acts which simulate:
  - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
  - c. The displaying of pubic hair, anus, vulva or genitals.

2. No licensee nor any employee or agent of such licensee shall engage in or permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
3. No licensee nor any employee or agent of such licensee shall engage in or permit any person to remain in or upon the licensed premises who exposes to public view any portion of their genitals or anus.
4. No licensee nor any employee or agent of such licensee shall wear or use any device or covering of any kind that exposes or simulates the breasts, genitals, anus, pubic hair or other portion thereof.

**D. Visual displays.**

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles, shall engage in or permit on the licensed premises the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
2. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals.
3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

**E. Marijuana consumption.**

No person or entity licensed under Article 3, 4, or 5 of Title 44, C.R.S. shall permit the consumption of marijuana and/or marijuana products as defined in sections 14 and 16 of Article XVIII of the Constitution of Colorado on any licensed premises.

**F. Local ordinances.**

This regulation shall not be deemed to authorize or permit any conduct, behavior or attire on licensed premises which is otherwise prohibited by any city or county ordinances.

**G. Controlled substances**

1. It is unlawful for a licensee to knowingly permit the illegal sale or negotiations for sale of any controlled substance, as defined in section 18-18-102(5), on a liquor licensed premises, except that this rule does not prohibit a pharmacy licensed by the state board of pharmacy to sell lawfully prescribed controlled substances at a liquor licensed drugstore.

**Regulation 47-913. Age of Employees.**

**Basis and Purpose.** The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-424(1)(b)(X) and (XI), 44-3-901(6)(p), and 44-4-106(1), C.R.S. The purpose of this regulation is to define permitted and prohibited roles for a liquor licensee's employees based upon the employee's age.

- A. Nothing within this regulation shall authorize a licensee to permit a person under the age of eighteen (18) to sell, dispense, serve, or participate in the sale, dispensing, or service of alcohol beverages.

- B. Except as otherwise provided by this regulation, a licensee shall not permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, dispense, or serve alcohol beverages unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one (21) years of age.
- C. Tavern, ~~lodging facility, and entertainment facility~~ ~~and lodging and entertainment~~ licensees that do not regularly serve meals.
  - 1. Employees or agents of the licensee must be at least twenty-one (21) years of age to handle and otherwise act with respect to malt, vinous, and spirituous liquors in the same manner as that person does with other items sold at retail and to sell such alcohol beverages or check identification of the customers of the retail outlet.
- D. Retail liquor store and liquor-licensed drugstore licensees.
  - 1. Retail liquor store and liquor-licensed drugstore licensees may permit a person who is at least eighteen (18) years of age to sell, serve, or participate in the sale or service of malt, vinous, and spirituous liquor without the need for supervision contained in subsection (B) of this Regulation.
  - 2. Retail liquor store and liquor-licensed drugstore licensees shall not permit a person who is less than twenty-one (21) years of age to deliver malt, vinous, and spirituous liquor pursuant to Regulation 47-426, 1 C.C.R. 203-2.
- E. Fermented malt beverage licensees.
  - 1. Fermented Malt Beverage On or On/Off Retail Licenses: Subsections (A) and (B) of this regulation apply for fermented malt beverage retailers licensed for on premises and on/off premises consumption.
  - 2. Fermented Malt Beverage and Wine Retailer Licensees.
    - a. Fermented malt beverage and wine retailer licensees may permit a person under eighteen (18) years of age who is supervised by a person on the premises eighteen (18) years of age or older to be employed on the licensed premises and handle fermented malt beverages or wine in the same respect as other items sold at retail, except a person under the age of eighteen (18) years of age shall not:
      - i. sell or dispense fermented malt beverages or wine;
      - ii. check age identification; or
      - iii. make deliveries beyond the customary parking area of the licensed premises.
    - b. Fermented malt beverage and wine retailer licensees may permit a person who is at least eighteen (18) years of age, to sell, serve, or participate in the sale or service of fermented malt beverages or vinous liquor.
    - c. Fermented malt beverage and wine retailer licensees shall not permit a person who is less than twenty-one (21) years of age to deliver fermented malt beverages or vinous liquor pursuant to Regulation 47-426, 1 C.C.R. 203-2.
- F. Special event permit holders:
  - 1. No person under eighteen (18) years of age may sell, serve, dispense or handle alcohol beverages.
  - 2. Malt, vinous, and spirituous liquors special event permittees, and fermented malt beverage special event permittees, may permit a person who is at least eighteen (18)

years of age but less than twenty-one (21) years of age to sell, serve, dispense, or handle alcohol beverages when said person is under the direct supervision of a person who is at least twenty-one (21) years of age.

- G. Wholesalers and Manufacturers licensed pursuant to article 3, of title 44, C.R.S.
1. Employees or agents of the licensee who are at least eighteen (18) years of age may handle and otherwise act with respect to alcohol beverages in the same manner as such person would with other items sold at wholesale, as long as they are under the direct supervision of a person who is at least twenty-one (21) years of age. However, persons under the age of twenty-one (21) shall not sell malt, vinous, or spirituous liquors or check identification of the customers of the permitted sales room.
- H. Retail Establishment Permittee licensed pursuant to article 3, of title 44, C.R.S.
1. A retail establishment permittee shall not permit an employee who is eighteen years of age or older and under twenty-one years of age to dispense or participate in the dispensing of a complementary beverage unless the employee is supervised by another employee of the retail establishment permitted, who is on the permitted premises and is at least twenty-one years of age.

#### **Regulation 47-1101. Delivery and Takeout Sales By On-Premises Licensees.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-911, and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to exercise proper regulation and control over the manufacture, distribution and sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State. This regulation establishes a permit for on-premises licensees authorized to engage in such sales by section 44-3-911, C.R.S., which temporarily allows persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, or 44-3-428, or 44-3-432 C.R.S., to sell alcohol beverages through delivery and takeout through July 1, 2025, the date section 44-3-911, C.R.S. is automatically repealed. Section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-4-104(1)(c)(I)(A) or 44-3-104(1)(c)(III), C.R.S., to sell alcohol beverages via takeout, and a person issued a license under sections 44-3-412, 44-3-415, 44-3-416, 44-3-419, 44-3-420, and 44-3-421, C.R.S., to sell alcohol beverages via delivery through July 1, 2025. Finally, section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room, to sell alcohol beverages through delivery until January 2, 2022. This regulation also addresses age verification, container, and other requirements and related recordkeeping for alcohol beverages sold through delivery or takeout by on premises licensees authorized to engage in such sales by section 44-3-911, C.R.S.

- A. The requirements of paragraphs (B), (C), (D), and (E) of this this Regulation 47-1101 apply to persons issued a license under sections 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-426, 44-3-428, 44-3-432 44-4-104 (1)(c)(I)(A), or 44-4-104 (1)(c)(III), C.R.S.
- B. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation may sell alcohol beverages through takeout and/or delivery pursuant to section 44-3-911, C.R.S., unless the licensee has first obtained a permit from the state licensing authority and paid the relevant fee established in Regulation 47-506.
1. If a person issued a license identified in paragraph (A) of this regulation applies for a takeout and/or delivery permit while a disaster emergency declared by the governor under part 7 of article 33.5 of title 24 is in effect, that person may continue engaging in takeout and/or delivery sales once the disaster emergency is rescinded or expired. However, the licensee shall cease all takeout and/or delivery sales if the state or local licensing authority denies the licensee's application for a takeout or delivery permit.
  2. An applicant for a permit must affirm on its takeout and/or delivery permit application that

the applicant derives, or will derive, no more than fifty (50) percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and orders that the licensee delivers.

- a. This subparagraph (B)(2) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; and
  - b. Nothing within this subparagraph (B)(2) shall limit the authority of the state licensing authority or the local licensing authority, if applicable, to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify the affirmation or compliance with this statutory requirement.
3. A takeout and/or delivery permittee shall display its takeout and/or delivery permit at all times in a prominent place on its licensed premises. The takeout and delivery permittee's employee making a delivery shall be required to carry, or have immediate access to, a copy of the takeout and delivery permit in the delivery vehicle. The copy of the permit may be electronic.
- C. If the relevant local licensing authority creates a permit for takeout and delivery pursuant to section 44-3-911(4)(C), C.R.S., no persons issued a license identified in paragraph (A) of this regulation may engage in sales of alcohol beverages through takeout or delivery unless the licensee holds takeout and/or delivery permits from both the state and local licensing authorities.
1. This subparagraph (c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24.
- D. Any licensee authorized to engage in sales of alcohol beverages through delivery or takeout pursuant section 44-3-911, C.R.S., and this regulation shall comply with the following requirements and limitations:
1. Orders for delivery or takeout that include alcohol beverages may be accepted by only the licensee or its employees at the licensed premises, which may be accepted by telephone, in person, or via internet communication. No order for delivery may be solicited or accepted by a delivery driver or from a delivery vehicle. All orders for delivery shall be documented in a written order prepared by the licensee or its employees.
  2. When receiving a delivery order, the licensee must obtain and record the name and date of birth of the person placing the order and the delivery address for the order. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for takeout or delivery of alcohol beverages.
  3. Delivery of orders that include alcohol beverages shall be made only to a person twenty-one (21) years of age or older at the address specified in the customer's delivery order.
  4. Delivery of orders that include alcohol beverages shall not be made to any public place, including public parks, streets, alleys, roads, or highways.
  5. Delivery must be made by an employee of the licensee who is at least twenty-one (21) years of age, and who has completed a seller server training program established under section 44-3-1001, C.R.S., and maintained recertification under the requirements of Regulation 47-605. Use of third-party delivery services is prohibited.
  6. The licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number of the person receiving the delivery of the alcohol beverages. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.
  7. Licensees who deliver alcohol beverages shall maintain all records relating to delivery, including delivery orders, receipt logs and journals, as part of their records required pursuant to section 44-3-701, C.R.S. These records shall be maintained by the licensee

for sixty (60) days. Failure to maintain accurate or complete records is a violation of this regulation.

8. Licensees engaged in delivery shall comply with section 42-4-1305, C.R.S., and any local laws, ordinances or regulations, addressing prohibitions on open containers of alcohol beverages in motor vehicles.
  9. Any alcohol beverage sold to a consumer through delivery or takeout under this regulation, which may include cocktails or mixed drinks, shall be in a sealed container.
    - a. For the purposes of this regulation “sealed container” means a “sealed container” as defined in subsection 44-3-103(51), C.R.S., and shall also include a container filled with alcohol beverage, that is new, has never been used, and has a tamper evident secure lid or cap designed to prevent consumption without removal of the lid or cap. “Sealed container” does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam. “Tamper evident” means a lid or cap that has been sealed with tamper-evident material, including, but not limited to, wax dip, heat shrink wrap, or adhesive tape or that is secured in such a manner that is visibly apparent if the container has been opened or tampered with.
    - b. Persons issued a license identified in paragraph (A) of this regulation may not refill sealed containers as defined in subsection (D)(9)(a) or offer any such refilled containers for sale.
    - c. Any sealed container of alcohol beverages sold pursuant to this regulation shall not exceed the relevant volume limits identified in paragraph (E) of this regulation.
  10. Any sealed container containing an alcohol beverage that is sold for takeout or delivery under this regulation, other than an alcohol beverage sealed by its manufacturer, shall identify the licensee that sold the beverage and include a warning statement, with a minimum fourteen (14) font size, stating as follows: “WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws and regulations prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S.”
  11. Licensees who sell alcohol beverages through delivery or takeout pursuant to this regulation are responsible for compliance with all laws and regulations prohibiting the sale of alcohol beverages to an underage person or to a visibly intoxicated person.
  12. Licensees shall only sell alcohol beverages through takeout and delivery between the hours of 7 a.m. and 12 midnight.
- E. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation shall sell more than the following amounts of alcohol beverage to a consumer as part of a takeout or delivery order:
1. 1,500 milliliters, or approximately 50.8 fluid ounces, of vinous liquors; and
  2. 144 fluid ounces, or approximately 4,259 milliliters, of malt liquor, fermented malt beverages, and hard cider, and
  3. One liter, or approximately 33.8 fluid ounces, of spirituous liquors.
- F. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.

- ~~G. This regulation is repealed, effective July 1, 2025, and any takeout and delivery permit then in effect shall be deemed to have expired, without further action by the state or local licensing authorities.~~
- H. ~~A person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room may sell alcohol beverage through delivery pursuant to section 44-3-911, C.R.S., and the requirements of this regulation. This paragraph (H) is repealed effective January 2, 2022.~~

**Regulation 47-315. Lodging and Entertainment Facility License.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections ~~44-3-103(15.5)~~, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(L), ~~and 44-3-202(2)(a)(I)(R), and 44-3-428~~, C.R.S. The purpose of this regulation is to describe those sports and entertainment activities which qualify an establishment as an entertainment facility. Additionally, the purpose of this regulation is to describe how to determine the primary business of ~~a lodging and an~~ entertainment facility.

- A. In addition to other statutory requirements, an ~~lodging and~~ entertainment facility license may be issued to a qualifying ~~lodging and~~ entertainment facility. ~~A "lodging and entertainment facility" is an establishment that is either:~~

~~1. A "lodging facility," the primary business of which is to provide the public with sleeping rooms and meeting facilities; or~~

12. An "entertainment facility" means an establishment

- a. In which the primary business is to provide the public with sports or entertainment activities within its licensed premises; and
- b. That, incidental to its primary business, sells and serves alcohol beverages at retail for consumption on the licensed premises and has sandwiches and light snacks available for consumption on the licensed premises.

- B. To qualify as an entertainment facility, the applicant or ~~lodging and~~ entertainment licensee must demonstrate that its primary business is to provide qualifying sports or entertainment activities within its licensed premises.

1. To qualify as a sports activity, the activity must provide the public with an opportunity to participate in, or to observe others who participate in, an activity such as a game, recreation, team or individual sport, or an activity of a similar nature. Examples of qualifying sports activities include, but are not limited to, the following:

- a. Arcade games;
- b. Billiards;
- c. Bowling;
- d. Golf; or
- e. Laser tag.

2. To qualify as an entertainment activity, the activity must provide the public with an opportunity to participate in or observe others who participate in an activity that is primarily artistic, cultural, educational, or entertaining, or an activity of a similar nature. Examples of qualifying entertainment activities include, but are not limited to, the following:

- a. Artistic exhibitions, films, or performances;
  - b. Arts and crafts classes;
  - c. Cooking classes;
  - d. Amusement rides; or
  - e. Spa experiences.
    - i. For purposes of this regulation, to qualify as a “spa experience” the facility must offer at least three (3) of the following treatments and experiences:
      - A. Facials;
      - B. Massage therapy;
      - C. Skin treatment;
      - D. Body wraps; or
      - E. Body waxing.
3. The following activities shall not qualify as entertainment activities for purposes of an entertainment facility:
- a. Any activity not described in subparagraphs (B)(1) or (B)(2) of this regulation; and
  - b. Shopping for or receiving goods or personal services, including but not limited to hair care or nail care services.
- C. An activity that would otherwise qualify under subparagraphs (B)(1) and (B)(2) of this regulation, shall not qualify if the activity involves the use of a deadly weapon as defined by subsection 18-1-901(3)(e), C.R.S., or creates a substantial health and safety risk to any person.
- D. Determining the primary business of ~~a lodging and an~~ entertainment facility.
- ~~1. ——— To satisfy the requirement that the primary business of a lodging facility is to provide the public with sleeping rooms and meeting facilities, and that serving and selling alcohol beverages is incidental thereto, the lodging facility’s annual gross revenues from the sale of sleeping rooms and meeting facilities must exceed fifty (50) percent of the lodging facility’s total annual gross sales revenues.~~
12. To satisfy the requirement that the primary business of an entertainment facility is to provide the public with sports or entertainment activities, and that serving and selling alcohol beverages is incidental thereto, the entertainment facility’s annual gross revenues from the sale of sports or entertainment activities must exceed fifty (50) percent of the entertainment facility’s total annual gross sales revenues.

**Regulation 47-1104. Lodging Facility License.**

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(29), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(R), 44-3-432, and 44-3-911(6)(a), C.R.S. The purpose of this regulation is to describe how to determine the primary business of a lodging facility.

- A. In addition to other statutory requirements, a lodging facility license may be issued to a qualifying lodging facility. "Lodging facility" means:
  - 1. An establishment the primary business of which is to provide the public with sleeping rooms and meeting facilities; and.
  - 2. That sells and serves alcohol beverages at retail for consumption on the licensed premises which includes meeting rooms and public spaces and has sandwiches and light snacks available for consumption on the licensed premises.
- B. Determining the primary business of a lodging facility.
  - 1. To satisfy the requirement that the primary business of a lodging facility is to provide the public with sleeping rooms and meeting facilities, the lodging facility's annual gross revenues from the sale of sleeping rooms and meeting facilities must exceed fifty (50) percent of the lodging facility's total annual gross sales revenues.
- C. Licensed Premises
  - 1. A Lodging Facility's licensed premises does not include the facility's sleeping rooms.
- D. Takeout and delivery
  - 1. Pursuant to 44-3-911(6)(a)(I) C.R.S. and 44-3-911(6)(a)(II) C.R.S a Lodging Facility Licensee may be issued a takeout and delivery permit.
    - a. A customer may purchase alcohol beverages for takeout and may remove a sealed, unopened container for consumption off the licensed premises.
    - b. A Lodging Facility licensee may not deliver alcohol beverages to its sleeping rooms.
    - c. The lodging facility licensee may not permit the storage of its alcohol beverages in sleeping rooms in a location including but not limited to a mini bar or mini fridge whereby the customer would have access to alcohol beverages before purchase. All purchases must take place on the licensed premises.